

Item SP04-26 Response Form

Title: Enforcement of Agreements–Writ Petitions (Gov. Code §§ 71639.5 and 71825.2) (amend rule 2211 of the California Rules of Court)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 P.M Tuesday, October 12, 2004

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

<i>Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.</i>
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Title	Enforcement of Agreements–Writ Petitions (Gov. Code §§ 71639.5 and 71825.2) (amend rule 2211 of the California Rules of Court).
Summary	Amended rule 2211 would establish a writ petition and hearing procedure for enforcement of labor agreements, as required by Gov. Code §§ 71639.5 and 71825.2.
Source	Administrative Office of the Courts, Office of the General Counsel
Staff	Scott Gardner, 415-865-7545, scott.gardner@jud.ca.gov
Discussion	<p>In August 2004, the Legislature enacted Government Code §§ 71639.5 and 71825.2 as part of SB 1102, a trailer bill to the Budget Act. The Legislature enacted SB 1102 to place all unfair labor practice disputes between trial courts and employee organizations under the jurisdiction of the Public Employment Relations Board (“PERB”). These disputes were formerly adjudicated under rule 2211 of the California Rules of Court, pursuant to the repealed §§ 71639.1 and 71825.</p> <p>However, the Legislature decided that enforcement of labor agreements between trial courts and employee organizations would still be processed under the existing writ procedure. Therefore, Government Code §§ 71639.5(c) and 71825(c) includes a directive to the Judicial Council to establish the same writ petition and appeal process as exists under the current rule 2211, whereby a justice from a specially appointed Court of Appeal panel hears the matter in superior court as a superior court judge on an expedited basis. SB 1102 also requires that the council enact a rule of court that creates “a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear these matters.” Amended rule 2211 would satisfy this requirement. A copy of the two statutes is attached.</p> <p>The proposed amended rule 2211 is patterned after the current rule 2211. The amended rule would continue to set forth a procedure for the Chief Justice to create a panel consisting of one justice from each district of the Court of Appeal and assign one justice from the panel to hear petitions filed under sections 71639.5 and 71825.2 in superior court. The Administrative Office of the Courts’ Judicial Assignments Unit would administer the assignment of a justice from the panel.</p> <p>The proposed rule amendment conforms to the legislative mandate of Government Code §§ 71639.5 and 71825.2. The only provisions in the rule that are not contained in the statute are that (1) the justices on the panel will receive training, (2) a party filing a writ petition must clearly identify it on the cover page, and (3) the clerk of the court must notify the Administrative Office of the Courts of the need to assign a justice from the panel.</p>

| Attachments

Rule 2211 of the California Rules of Court is amended, effective immediately, to read:

Rule 2211. ~~Trial court labor relations disputes writ~~ Enforcement of Agreements-writ petitions (Gov. ~~Code, §71639.1~~) Code §§ 71639.5 and 71825.2)

- (a) **[Applicability]** This rule applies to petitions filed under subdivisions (c) and (d) subdivision (a) of Government Code ~~section 71639.1~~. sections 71639.5 and 71825.2.
- (b) **[Assignment of Court of Appeal justice to hear the petition]**
- (1) The petition must state the following on the first page, below the case number, in the statement of the character of the proceeding (see rule 201(f)(6)): “Writ petition filed under Government Code ~~section 71639.1~~ Assignment section 71639.5 (or 71825.2)–Assignment of Court of Appeal justice required.”
 - (2) When the petition is filed, the clerk of the court must immediately request of the Judicial Assignments Unit of the Administrative Office of the Courts the assignment of a hearing judge from the panel established under subdivision (e).
 - (3) The judge assigned to hear the petition in the superior court must be a justice from a Court of Appeal for a district other than the district for that superior court.
- (c) **[Superior court hearing]**
- (1) The superior court must hear and decide the petition on an expedited basis and must give the petition priority over other matters to the extent permitted by law and the rules of court.
 - (2) The petition must be heard by a judge assigned by the Chief Justice from the panel of hearing judges established under subdivision (e).
- (d) **[Appeal]** An appeal of the superior court decision must be heard and decided on an expedited basis in the Court of Appeal for the district in which the petition was heard and must be given priority over other matters to the extent permitted by law and the rules of court.
- (e) **[Panel of hearing judges]** The panel of judges who may hear the petitions in the superior court must consist of Court of Appeal justices selected by the Chief Justice as follows:
- (1) The panel must include at least one justice from each district of the Court of Appeal.
 - (2) Each justice assigned to hear a petition under (c)(2) must have received training on hearing the petitions as specified by the Chief Justice.

Government Code section 71639.5.

- (a) Any written agreements reached through negotiations held pursuant to this article are binding upon the parties, upon adoption under Section 71634.3, and, notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, any of those agreements may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.
- (b) Written agreements reached through negotiations held pursuant to this article that contain provisions requiring the arbitration of controversies arising out of the agreement shall be subject to enforcement under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.
- (c) The Judicial Council shall adopt rules of court that shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear petitions under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, and writ applications under Sections 1085 and 1103 of the Code of Civil Procedure, and as specified in those rules, from which a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court, and to the extent permitted by law, shall provide that any justice assigned to hear the matter in the superior court shall not be from the court of appeal district in which the action is filed, and shall further provide that appeals in such matters shall be heard in the court of appeal district where the matter was filed.

Government Code section 71825.2.

- (a) Any written agreements reached through negotiations held pursuant to this article are binding upon the parties, upon adoption under Section 71819, and, notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, any of those agreements may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.
- (b) Written agreements reached through negotiations held pursuant to this article that contain provisions requiring the arbitration of controversies arising out of the agreement, shall be subject to enforcement under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.
- (c) The Judicial Council shall adopt rules of court that shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear petitions under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, and writ applications under Sections 1085 and 1103 of the Code of Civil Procedure, and as specified in those rules, from which a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court and, to the extent permitted by law, shall provide that any justice assigned to hear the matter in the superior court shall not be from the court of appeal district in which the action is filed, and shall further provide that appeals in those matters shall be heard in the court of appeal district where the matter was filed.